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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,835	12/10/2003	Marc S. Hollander	AOL0114	8904

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
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EXAMINER

BATURAY, ALICIA

ART UNIT	PAPER NUMBER
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2155

MAIL DATE	DELIVERY MODE
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10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/733,835

Applicant(s)

HOLLANDER ET AL.

Examiner

Alicia Baturay

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2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-6 are presented for examination.

Specification

2. The use of the trademarks "America On-line," "MusicNet," and "Digital City" have been noted in this application. They should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

3. The disclosure is objected to because it contains embedded hyperlinks and/or other form of browser-executable code, "http://www.home.digitalcity.com" and "www.musicnet.com" on page 8, in paragraph 34. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

4. The disclosure is objected to because of the following informalities: reference character 20 has been used to designate "the online subscriber" in paragraph 41 and "the Resource Integrator Client" in paragraph 42 in the specification. The examiner recognizes that "the Resource Integrator Client run[s] on the subscriber's computer," however because the Resource Integrator Client is presumably only a software component resident upon the

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subscriber's computer, different reference characters should be used to designate these elements. Appropriate correction is required.

5. The disclosure is objected to because of the following informalities: Applicant states on page 9, paragraph 41, line 4 "record the subscriber's selections with servers 26, 28, 30, 32 that provide the..." It is believed the Applicant meant to write "record the subscriber's selections with servers 26, 28, 30, 34 that provide the..." as reference character 32 has previously been used to indicate the Internet. Appropriate correction is required.
6. The disclosure is objected to because of the following informalities: page 11, paragraph 48, line 2 states "For example, within the DCT Today..." It is thought that applicant meant to write "For example, within the DCI Today..." Appropriate correction is required.
7. The disclosure is objected to because of the following informalities: page 11, paragraph 49, lines 2-3 state "The processes fork on demand and maintained in a pool..." It is thought that applicant meant to write "The processes fork on demand and *are* maintained in a pool..." Appropriate correction is required.
8. The disclosure is objected to because of the following informalities: page 12, paragraph 51, line 2 states "API's for server PreQuene..." It is thought that applicant meant to write "API's for server PreQueue..." Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 2 and 3 recite the limitation "the system." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

13. With respect to claim 1, "A comprehensive and integrated music search and discovery tool...comprising: a mega indexer platform...a DCI Today platform...and a server PreQueue platform..." appears to be directed to an arrangement that does not necessarily include hardware. The specification describes the tool as working "in connection with personal computers, mobile devices, portable digital assistants (PDA's), or network enabled cell phones (see Specification, page 6, paragraph 21)" and the mega indexer platform, the DCI Today platform and the server PreQueue platform as "primary software components (see Specification, page 10, paragraph 44)." None of the components of this claim appear to be

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limited to hardware and as such are not limited to tangible embodiments, instead being sufficiently broad to encompass software, per se. Claims 2 and 3 fail to add any additional structure to the system, instead merely further limiting the intended use of the system. Thus, they fail to overcome the deficiencies of claim 1. Therefore, Claims 1-3 thus fail to fall within a statutory category of invention as they claim software per se.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

15. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Dunning et al. (U.S. 7,024,485).

16. With respect to claim 1, Dunning teaches a comprehensive and integrated music search and discovery tool for allowing a user to find music information available from a music service in one place, by any of song or artist, comprising:

A mega indexer platform for versioning and bouncing of searchable runtime data structures across multiple systems that is atomic at the HTTP connection level (Dunning, col. 3, line 52 – col. 4, line 12); a DCI Today platform for integration of a Web server within a

client process to provide a framework for secure client side Web applications, even while off line (Dunning, col. 13, lines 21-57); and a server PreQueue platform to minimize overhead associated with waiting for remote resources in a multi-threaded IO model (Dunning, col. 6, lines 54-67 and col. 7, lines 12-39).

17. With respect to claim 2, Dunning teaches the invention described in claim 1, including the system of further comprising: a music toolbox (Dunning, col. 13, lines 1-57).
18. With respect to claim 3, Dunning teaches the invention described in claim 2, including the system wherein said comprehensive music search and discovery (Dunning, col. 13, lines 1-6) is implementable for a plurality of electronic content (Dunning, col. 10, lines 52-58).
19. Claims 4-6 do not teach or define any new limitations above claims 1-3 and therefore are rejected for similar reasons.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay
September 26, 2007


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER